

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
VS.	§	NO. 4:11-CR-861-2
	§	
CYRUS SAJADI	§	

**DEFENDANT’S MOTION REQUESTING THE GOVERNMENT TO  
PRESERVE ROUGH NOTES AND OTHER MATERIALS**

TO THE HONORABLE VANESSA GILMORE:

1. Defendant, Dr. Cyrus Sajadi, through undersigned counsel, moves this Honorable Court pursuant to 18 U.S.C. § 3500 and *Brady v. Maryland*, 373 U.S. 83 (1963), to enter an order requesting the attorney for the Government and each and every investigative agency of the Government of the United States in the above-styled and numbered case, to preserve all field notes, rough notes or memoranda, or other recordings of facts and other information prepared and/or gathered during the investigation of the instant matter which led to this indictment.

**I. REQUEST**

2. The Defendant requests the Court issue an Order to prevent materials from being destroyed so that such material will be available to counsel for purposes of cross-examination and will preserve the Defendant’s rights to effective assistance of counsel under the Sixth Amendment of the United States Constitution.

**II. ARGUMENT**

3. As the matter of preservation has now been raised pre-trial, and there is no testimony at the present time to demonstrate whether or not the rough notes in question could come within the definition of a “statement” as defined in § 3500(e)(2), but it could well be that by the time this matter is tried a judicial determination could be made that the rough note or field notes in

question are statements that are producible under the *Jencks Act*. These notes could also contain *Brady v. Maryland* material and therefore any destruction of the notes after the government has been put on notice not to destroy them would render an independent examination of the notes by a neutral and detached judicial official impossible.

4. The Fifth Circuit on at least one occasion has held that a defendant was entitled to portions of an original notebook in which a law enforcement agent recorded statements made by a government witness during an interview. *See, Papworth v. United States*, 256 F.2d 125(5<sup>th</sup> Cir. 1958). In *Papworth* the trial court reviewed the notes and determined that they were a “substantially verbatim recital” of the witness’ statements rendering those rough notes producible under the *Jencks Act*. It is conceivable the rough notes might be producible at a later date and destruction of the notes at any time prior to a definitive ruling by a United States District Judge on the matter could not be considered to be in good faith. At this early stage of the case the Defendant is seeking the maintenance of the status quo.

### **III. PRAYER**

WHEREFORE, Defendant respectfully requests that this Honorable Court order the United States Attorney’s Office, the Federal Bureau of Investigation, and any law enforcement entity, or other government agency or private investigative agency working under their control in the above-styled and numbered cause to preserve their rough notes and all other investigative materials until a definitive ruling can be entered by a United States District Judge during the trial of the instant matter concerning the production of the same.

Respectfully submitted,

DeGUERIN, DICKSON, HENNESSY & WARD

/s/ Dick DeGuerin

Dick DeGuerin

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*ATTORNEYS FOR DEFENDANT*

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was served on Assistant United States Attorney Laura Cordova, and other interested parties, by delivering a copy of same on May 15, 2013, by electronic mail via the CM/ECF system.

/s/ Dick DeGuerin

Dick DeGuerin

**CERTIFICATE OF CONFERENCE**

I have spoken with Assistant United States Attorney Laura Cordova regarding this motion and she is OPPOSED to the granting of this motion.

Dated: May 15, 2013

/s/Dick DeGuerin

Dick DeGuerin

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CYRUS SAJADI

§

**ORDER**

On this day, came on to be heard Defendant's Motion Requesting the Government to Preserve Rough Notes and Other Materials, and said motion be GRANTED.

SIGNED \_\_\_\_\_, 2013.

\_\_\_\_\_  
Vanessa D. Gilmore  
United States District Judge